

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CLEAN AIR COUNCIL,

Plaintiff,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Defendant.

CIVIL ACTION
NO. 20-3646

ORDER

AND NOW, this 1st day of March 2021, upon consideration of Plaintiff's Motion for Default Judgment and Request for Hearing (Doc. No. 5), it is **ORDERED** that Plaintiff's Motion (Doc. No. 5) is **DENIED WITHOUT PREJUDICE**.¹

¹ Federal Rule of Civil Procedure 55 governs the entry of defaults and default judgments. See Fed. R. Civ. P. 55. "Prior to obtaining a default judgment under either Rule 55(b)(1) or Rule 55(b)(2), there must be an entry of default as provided by Rule 55(a)." Nationwide Mut. Ins. Co. v. Starlight Ballroom Dance Club, Inc., 175 F. App'x 519, 521 n.1 (3d Cir. 2006) (citation omitted). Rule 55(a) directs the Clerk of Court to enter a default against a defendant who "has failed to plead or otherwise defend" where "that failure is shown by affidavit or otherwise[.]" Fed. R. Civ. P. 55(a).

In the instant case, Plaintiff has filed a Motion for Default Judgment and Request for Hearing pursuant to Rule 55(b)(2). (See Doc. No. 5 ¶ 1.) Plaintiff filed the Motion without first requesting an entry of default against Defendant pursuant to Rule 55(a). Thus, Plaintiff's Motion for Default Judgment and Request for Hearing (Doc. No. 5) will be denied without prejudice as premature. In addition, pursuant to Fed. R. Civ. P. 5(a)(1)(d), the Court will require any request for a default or future motion for a default judgment to be personally served,

pursuant to Fed. R. Civ. P. 5(b)(2)(B)(i), by leaving a copy at the United States Attorney's Office for the Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250 Philadelphia, PA 19106; and

BY THE COURT:

/s/ Joel H. Slomsky
JOEL H. SLOMSKY, J.

pursuant to Fed. R. Civ. P. 5(b)(2)(C), by mailing a copy, certified mail postage prepaid, to the office addresses for the same government agencies on which the Summons and Complaint were served (see Doc. No. 2) as follows:

- 1) Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
- 2) Civil Process Clerk, United States Attorney's Office
555 Fourth Street, N.W.
Washington, D.C. 20530
- 3) Office of the United States Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001